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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/629,077

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Nancy Usiak

BSI-513US

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RATNERPRESTIA

P.O. BOX 980

VALLEY FORGE, PA 19482

EXAMINER

MENDOZA, MICHAEL G

ART UNIT

PAPER NUMBER

3734

MAIL DATE

DELIVERY MODE

01/05/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/629,077	<b>Applicant(s)</b> USIAK ET AL.	
	<b>Examiner</b> MICHAEL G. MENDOZA	<b>Art Unit</b> 3734	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 9/16/2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 and 23-55 is/are pending in the application.
- 4a) Of the above claim(s) 1-21 and 31-55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see page 2 of arguments, filed 9/16/2008, with respect to 35 U.S.C. 102(e) have been fully considered and are persuasive. The 35 U.S.C. 102(e) of claims 23-30 have been withdrawn.

### ***Claim Rejections - 35 USC § 103***

2. Claims 23-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over van der Burg et al in view McDonald 5676697.

3. Van der Burg et al. teaches, a rolled graft, comprising a generally tubular graft flattened against itself and rolled onto itself into cylindrical configuration wherein the graft includes a larger diameter main section (col. 8, lines 24-44). It should be noted that Van der Burg et al. fails to teach two smaller diameter sections at an axial end of the larger diameter section.

4. McDonald teaches a larger diameter main section and two smaller diameter sections at an axial end of the larger diameter section. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the graft of van der Burg et al. to have two smaller diameter sections in view of McDonald when using the graft in conjunction with a trunk vessel into two branch vessels (see abstract).

5. Van der Burg/McDonald wherein the graft is rolled onto an axial member (figs. 4A-4C).

6. As to claims 25, it is well known in the art of stents and grafts to over balloons to facilitated expansion of the stents/grafts. Therefore it would have been obvious to one

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having ordinary skill in the art at the time the invention was made to use a balloon or other type of expansion element for opening up the rolled graft.

7. Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over van der Burg/McDonald in view of Wallace et al. 6254628.

8. Van der Burg/McDonald teaches the rolled graft of claim 22. It should be noted that van der Burg/McDonald teaches the removal of a covering, but fails to teach a temporary covering comprising perforations along its length.

9. Wallace et al. teaches a covering with common perforations (94) for removal of the covering. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the perforations of Wallace et al. on the cover of van der Burg/McDonald to facilitate the removal of the cover.

10. Van der Burg/McDonald/Wallace teaches wherein the temporary covering is absorbable (col. 10, lines 28-29); and flexible member is embedded in the temporary covering (95).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL G. MENDOZA whose telephone number is (571)272-4698. The examiner can normally be reached on Mon.-Fri. 9:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on (571) 272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. G. M./  
Examiner, Art Unit 3734

/Todd E Manahan/  
Supervisory Patent Examiner, Art Unit 3731